

**In the United States District Court,
Northern District of Ohio,
Western Division**

United States of America,

Case No. 3:19-cr-0294-06

Plaintiff,

Judge James G. Carr

v.

Jamel Gaines,

Defendant.

Pending is the Defendant's Motion to Reduce Sentence under Amendment 821 to the Sentencing Guidelines. (Doc. 1050). In accordance with this Court's Order, after filing the Motion *pro se*, the matter was referred to the Federal Public Defender's Office (FPD) for review. N.D. Ohio General Order 2023-20, ¶I (11/23/2023). Under this Order, the FPD has the right to file a supplemental motion in support of a *pro se* defendant's request. *Id.* ¶V. The FPD filed a Notice of No Intent to Supplement (Doc. 1052). The Government has filed a Response in Opposition. (Doc. 1053).

Background

Defendant entered a plea of guilty to Conspiracy, two counts of Possession, and Use of a Communications Facility to Facilitate. (Doc. 785, pgID 5942-3). After various adjustments, his Offense Level was calculated to be 27. (*Id.*, pgID 5065). His criminal history score was eight. However, two "status points" were added due to Defendant's act of committing crimes while under a prior criminal justice sentence. (*Id.* at 5977). With a score of ten, Defendant's Criminal History Category was a V. (*Id.*). The resulting Guideline Range was 120-150 months. (*Id.* at 5986).

On September 20, 2021, I sentenced Defendant to a term of 120 months as to Counts 1, 2, and 3 and 48 months as to Count 79 to run concurrently. (Doc. 840; Doc. 846). This was the mandatory minimum sentence for Conspiracy (Count 1).

Discussion

In Part A to Amendment 821 to the Sentencing Guidelines, the Sentencing Commission altered the “status points” provision regarding criminal history. Under revised § 4A1.1(e), a person who otherwise presents seven or more criminal history points receives one additional “status” criminal history point, instead of two, while a person who otherwise presents six criminal history points or less, receives no status points.

Applying these changes to Defendant, he would now receive one status point, instead of two, for a total of nine criminal history points. This would reduce his Criminal History Category to IV and his Guideline Range to 100-125 months. His original sentence - 120 months - falls within the revised Guideline Range.

Additionally, Defendant is not eligible for sentence reduction under Amendment 821 because he is subject to a statutorily mandated minimum sentence, which is the sentence he received.

For the foregoing reasons, it is hereby

ORDERED THAT: The Defendant’s Motion to Reduce Sentence (Doc. 1050) be, and the same hereby is, **denied**.

So ordered.

/s/ James G. Carr
Sr. U.S. District Court Judge